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Division of Publications**

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Sequence Number: 01-14-09
Rule ID(s): 3958
File Date: 01/15/09
Effective Date: 03/31/09

Rulemaking Hearing Rule(s) Filing Form

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing. TCA Section 4-5-205

Agency/Board/Commission:	Environment and Conservation
Division:	Air Pollution Control
Contact Person:	Jeryl W. Stewart
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Revision Type (check all that apply):

- ☒ Amendment
☐ New
☐ Repeal

Rule(s) Revised (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables)

Chapter Number	Chapter Title
1200-03-18	Volatile Organic Compounds
Rule Number	Rule Title
1200-03-18-43	Offset Lithographic Printing Operations

(Place substance of rules and other info here. Statutory authority must be given for each rule change. For information on formatting rules go to <http://state.tn.us/sos/rules/1360/1360.htm>)

Chapter 1200-03-18
Volatile Organic Compounds

Amendment

Part 1 of subparagraph (a) of paragraph (7) of rule 1200-03-18-.43 Offset Lithographic Printing Operations is amended by deleting the second occurrence of the word "and" and adding the word "or" to replace it so that, as amended, part 1 shall read:

1. The owner or operator of a subject heatset offset lithographic printing press shall install, calibrate, maintain, and operate a temperature monitoring device, according to the manufacturer's instructions, at the inlet or outlet of the control device. The monitoring temperature shall be set during testing required to demonstrate compliance with the emission standard. Monitoring shall be required only when the unit is operational.

Authority: T.C.A. § 68-201-105.

* If a roll-call vote was necessary, the vote by the Agency on these rulemaking hearing rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)
Michael Atchison	X				
Tracy R. Carter	X				
Ngee-Sing Chong				X	
Wayne T. Davis	X				
Mary English				X	
Stephen R. Gossett	X				
Helen Hennon				X	
Richard M. Holland	X				
Joe C. McKinnon	X				
Donald Mull	X				
Dale Swafford	X				
Greer Tidwell, Jr.				X	
Larry Waters	X				

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Air Pollution Control Board (board/commission/ other authority) on 07/11/2007 (mm/dd/yyyy), and is in compliance with the provisions of TCA 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 04/30/07

Notice published in the Tennessee Administrative Register on: 05/15/07

Rulemaking Hearing(s) Conducted on: (add more dates). 06/21/07

Date: Nov. 14, 2008

Signature: Barry R. Stephens

Name of Officer: Barry R. Stephens, P.E.

Title of Officer: Technical Secretary



Subscribed and sworn to before me on: November 14, 2008

Notary Public Signature: Malcolm H. Butler

My commission expires on: May 23, 2009

All rulemaking hearing rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

RE Cooper
Robert E. Cooper, Jr.
Attorney General and Reporter
1-9-09
Date

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Filed with the Department of State on: 1/15/09

Effective on: 3/31/09

Tre Hargett
Tre Hargett
Secretary of State

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PUBLICATIONS

Public Hearing Comments

One copy of a document containing responses to comments made at the public hearing must accompany the filing pursuant to T.C.A. §4-5-222. Agencies shall include only their responses to public hearing comments, which shall be summarized. No letters of inquiry from parties questioning the rule will be accepted. When no comments are received at the public hearing, the agency need only draft a memorandum stating such and include it with the Rulemaking Hearing Rule filing. Minutes of the meeting will not be accepted. Transcripts are not acceptable.

There were no verbal or written comments received at the public hearing or during the comment period.

Regulatory Flexibility Addendum

Pursuant to Public Chapter 464 of the 105th General Assembly, prior to initiating the rule making process as described in § 4-5-202(a)(3) and § 4-5-202(a), all agencies shall conduct a review of whether a proposed rule or rule affects small businesses.

(If applicable, insert Regulatory Flexibility Addendum here)

- (1) The type or types of small business and an identification and estimate of the number of small businesses subject to the proposed rule that would bear the cost of, or directly benefit from the proposed rule:

The current Rule 1200-3-18-.43 addresses offset lithographic printing operations in Rutherford, Sumner, Williamson, and Wilson counties. To the best of the Division's knowledge only one facility is affected by this rule.

- (2) The projected reporting, recordkeeping, and other administrative costs required for compliance with the proposed rule, including the type of professional skills necessary for preparation of the report or record:

None.

- (3) A statement of the probable effect on impacted small businesses and consumers:

The rule before this amendment, of substituting the word "or" for the word "and", required temperature monitoring at the inlet and outlet for incinerators being used as air pollution control devices. There are two types of incinerators that are used to control emissions from evaporation of inks used in the printing process. The thermal incinerator can have a temperature monitor at the outlet from the incinerator. The catalytic incinerator can be monitored at the inlet. Neither type of incinerator can be monitored both at inlet and outlet which is why this rule is amended. Since it has been learned that it is not technically feasible to monitor temperature at both the inlet and outlet of the types of incinerators used to control emissions from this type of source, the rule allows monitoring at the inlet or outlet and is believed to be beneficial.

- (4) A description of any less burdensome, less intrusive or less costly alternative methods of achieving the purpose and objectives of the proposed rule that may exist, and to what extent the alternative means might be less burdensome to small business:

None.

- (5) A comparison of the proposed rule with any federal or state counterparts:

The amended language is consistent with the current language in the National Emission Standards for Hazardous Air Pollutants for the Printing and Publishing Industry, specifically in 40 CFR 63.828(a)(4)(ii).

- (6) Analysis of the effect of the possible exemption of small businesses from all or any part of the requirements contained in the proposed rule.

They would not get the benefit of the corrected language.

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to TCA 4-5-226(i)(1).

- (A) A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

The change made to the existing language is the simple substitution of the word "or" for the word 'and'. The rule before this amendment required temperature monitoring at the inlet and outlet for incinerators being uses as air pollution control devices. There are two types of incinerators that are used to control emissions from evaporation of inks used in the printing process. The thermal incinerator can have a temperature monitor at the outlet from the incinerator. The catalytic incinerator can be monitored at the inlet. Neither type of incinerator can be monitored both at inlet and outlet which is why this rule is amended.

Since it has been learned that it is not technically feasible to monitor temperature at both the inlet and outlet of the types of incinerators used to control emissions from this type of source, the rule allows monitoring at the inlet or outlet. As explained in the preceding paragraph, the point at which the monitoring can be done will depend on the type of incinerator.

- (B) A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

The EPA facilitates state adoption of rules to cover various types of VOC-emitting sources by preparing guidance for specific industry called Control Technology Guidelines (CTG). The latest version of the CTG for the offset lithographic printing industry is from 2006 http://www.epa.gov/ttn/caaa/t1/ctg/litho_print_ctg_092906.pdf. EPA required the State Implementation Plan (SIP) to have Reasonable Available Control Technology (RACT) for emissions of volatile organic compounds (VOC). VOC is a precursor to formation of ozone. The rule involved only applies in a 5-county non-attainment area in Middle Tennessee.

The referenced area in Middle Tennessee was designated as non-attainment for ozone. The area is currently in attainment although the federal standard for ozone is different than the standard applied in the mid-1990's which was measured over one hour as opposed to an 8-hour average concentration now. An earlier version of the EPA CTG guidance did not actually specify where temperature should be monitored. This rule is not being adopted from federal language but federal guidance is being used. It has been learned that EPA understands the difficulty involved with monitoring temperature at inlet and outlet from a statement it made in a rulemaking in a different context from VOC emissions but involving the same types of incinerators used for this type of printing operation. EPA has never had a rule that required the monitoring at both the inlet and outlet but the issue was not clear in the earlier guidance that was relied upon in the original promulgation of the rule here.

- (C) Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

The original rule addresses certain offset lithographic printing facilities located in Davidson, Rutherford, Shelby, Sumner, Wilson, and Williamson Counties. This particular rule being amended affects only the Offset Lithography and Letterpress type of printing operation. There is one facility of this kind in the identified area and this facility is located in Portland in Sumner County. The facility was formerly Heritage Graphics. The assets of the facility were acquired by a company called Printworks South LP. There were no comments concerning the rule revision.

- (D) Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule;

The Department is not aware of any.

- (E) An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact

is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

None.

- (F) Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

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- (G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Alan M. Leiserson
Legal Services Director
Department of Environment and Conservation

- (H) Office address and telephone number of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

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- (I) Any additional information relevant to the rule proposed for continuation that the committee requests.

The Department is not aware of any.